

Substitute Senate Bill No. 600

Senate, April 7, 1998. The Committee on Judiciary reported through SEN. WILLIAMS, 29th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING RETIREMENT ACCOUNTS AND MEDICAL SAVINGS ACCOUNTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 52-321a of the general statutes is  
2 repealed and the following is substituted in lieu  
3 thereof:

4 (a) Except as provided in subsection (b) of  
5 this section, any interest in or amounts payable  
6 to a participant or beneficiary from (1) any  
7 trust, custodial account, annuity or insurance  
8 contract established as part of a Keogh plan or a  
9 retirement plan established by a corporation which  
10 is qualified under Section 401, 403, 404 or 409 of  
11 the Internal Revenue Code of 1986, or any  
12 subsequent corresponding internal revenue code of  
13 the United States, as from time to time amended,  
14 (2) any individual retirement account which is  
15 qualified under Section 408 of said internal  
16 revenue code to the extent funded, including  
17 income and appreciation, (A) as a roll-over from a  
18 qualified retirement plan, as provided in  
19 subdivision (1) of this section, pursuant to  
20 Section 402(a)(5), 403(a) or 408(d)(3) of said  
21 internal revenue code or (B) by annual  
22 contributions which do not exceed the maximum

23 annual limits set forth in Section 219(b) of said  
24 internal revenue code, determined without regard  
25 to any reduction or limitation for active  
26 participants required by Section 219(g) of said  
27 internal revenue code, [or] (3) (A) ANY SIMPLE  
28 RETIREMENT ACCOUNT ESTABLISHED AND FUNDED PURSUANT  
29 TO SECTION 408(p) OF SAID INTERNAL REVENUE CODE,  
30 (B) ANY SIMPLE PLAN ESTABLISHED AND FUNDED  
31 PURSUANT TO SECTION 401(k)(11) OF SAID INTERNAL  
32 REVENUE CODE, (C) ANY ROTH IRA ESTABLISHED AND  
33 FUNDED PURSUANT TO SECTION 408A OF SAID INTERNAL  
34 REVENUE CODE, (D) ANY EDUCATION INDIVIDUAL  
35 RETIREMENT ACCOUNT ESTABLISHED AND FUNDED PURSUANT  
36 TO SECTION 530 OF SAID INTERNAL REVENUE CODE, OR  
37 (E) ANY SIMPLIFIED EMPLOYEE PENSION RETIREMENT  
38 ACCOUNT ESTABLISHED UNDER SECTION 408(k) OF SAID  
39 INTERNAL REVENUE CODE TO THE EXTENT SUCH ACCOUNT  
40 IS FUNDED BY ANNUAL CONTRIBUTIONS WITHIN THE  
41 LIMITS OF SECTION 408(j) OF SAID INTERNAL REVENUE  
42 CODE OR ROLLOVER CONTRIBUTIONS FROM A QUALIFIED  
43 PLAN, AS PROVIDED IN SUBDIVISION (1) OF THIS  
44 SUBSECTION, PURSUANT TO SECTION 402(a)(5), 403(a)  
45 OR 408(d)(3) OF SAID INTERNAL REVENUE CODE, (4)  
46 ANY MEDICAL SAVINGS ACCOUNT ESTABLISHED UNDER  
47 SECTION 220 OF SAID INTERNAL REVENUE CODE, TO THE  
48 EXTENT SUCH ACCOUNT IS FUNDED BY ANNUAL DEDUCTIBLE  
49 CONTRIBUTIONS OR A ROLLOVER FROM ANY OTHER MEDICAL  
50 SAVINGS ACCOUNT AS PROVIDED IN SECTION 220(f)(5)  
51 OF SAID INTERNAL CODE, OR (5) any pension plan,  
52 annuity or insurance contract or similar  
53 arrangement not described in subdivision (1) or  
54 (2) of this subsection, established by federal or  
55 state statute for federal, state or municipal  
56 employees for the primary purpose of providing  
57 benefits upon retirement by reason of age, health  
58 or length of service, shall be exempt from the  
59 claims of all creditors of such participant or  
60 beneficiary. Any such trust, account, contract,  
61 plan or other arrangement shall be (A)  
62 conclusively presumed to be a restriction on the  
63 transfer of a beneficial interest of the debtor in  
64 a trust that is enforceable under the laws of this  
65 state, and (B) considered a trust which has been  
66 created by or which has proceeded from a person  
67 other than such participant or beneficiary, even  
68 if such participant or beneficiary is a  
69 self-employed individual, a partner of the entity

70 sponsoring the Keogh plan or a shareholder of the  
71 corporation sponsoring the retirement plan.

72 (b) Nothing in this section shall impair the  
73 rights of an alternate payee under a qualified  
74 domestic relations order, as defined in Section  
75 414(p) of the Internal Revenue Code of 1986, or  
76 any subsequent corresponding internal revenue code  
77 of the United States, as from time to time  
78 amended.

79 (c) Nothing in this section shall affect the  
80 status of additions or contributions to a trust,  
81 account, contract, plan or other arrangement  
82 described in subsection (a) of this section if  
83 (1)(A) the debtor-participant or the  
84 debtor-beneficiary is a self-employed individual,  
85 partner of the entity sponsoring the Keogh plan or  
86 a one per cent or more shareholder of the  
87 corporation sponsoring the retirement plan, or in  
88 the opinion of a court of competent jurisdiction,  
89 exercises dominion and control over such  
90 proprietorship, partnership, corporation or other  
91 entity and (B) the addition or contribution is  
92 made less than ninety days before the filing of  
93 the claim on which the judgment is thereafter  
94 entered or (2) such additions or contributions are  
95 determined to be a fraudulent conveyance under  
96 applicable federal or state law.

97 JUD COMMITTEE VOTE: YEA 37 NAY 0 JFS

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

\* \* \* \* \*

**FISCAL IMPACT STATEMENT - BILL NUMBER sSB 600**

STATE IMPACT	Minimal Revenue Loss, see explanation below
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Department of Revenue Services, Judicial Department

**EXPLANATION OF ESTIMATES:**

STATE IMPACT: By expanding the number of accounts that are exempt from creditors claims on participants or beneficiaries of those accounts, in cases where the state is a creditor, a revenue loss will result, however, the number of cases is expected to be small and the revenue loss minimal.

\* \* \* \* \*

**OLR BILL ANALYSIS**

sSB 600

**AN ACT CONCERNING INDIVIDUAL RETIREMENT ACCOUNTS**

**SUMMARY:** This bill exempts from creditors' claims interests in or amounts payable to participants and beneficiaries of the following accounts:

1. any Simple Retirement Account,
2. Roth Individual Investment Accounts,
3. Simple Plans,

4. Education Individual Retirement Accounts,
5. Simplified Employee Pension Plans to the extent that the account is funded by applicable annual contributions, and
6. Medical Savings Accounts to the extent funded by annual deductible contributions or rollovers from any other applicable medical account.

Currently, creditors cannot claim interests in and payments from specified accounts, including trusts, custodial accounts, and certain individual retirement accounts (IRA).

EFFECTIVE DATE: October 1, 1998

#### **FURTHER EXPLANATION**

##### **Investment Accounts**

**Simple Plan.** A simple plan is similar to the 401(k) that is currently exempt by law, but the maximum contribution is not as large as the \$2,000 that may be invested in a 401(k).

**Roth Individual Retirement Account.** A tax deferred account that allows eligible people to invest up to \$2,000 (Internal Revenue Code (IRC), Sec. 408A).

**Education Individual Retirement Account.** An IRA that allows participants to invest up to \$500 a year for a child's education (IRC Sec. 530).

**Simplified Employee Pension Plan.** A retirement plan established by employers that uses IRA accounts for plan participants (IRC Sec. 408(k)).

**Medical Savings Account.** An account that allows participants to make contributions for his medical expenses or those of his dependents up to certain IRC-imposed limits (IRC Sec. 220).

#### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 37 Nay 0